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AUG 10 2005

OFFICE OF PETITIONS

In re Application of
John R. Webster
Application No. 09/987,322
Filed: November 14, 2001
Attorney Docket No. 84561

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed June 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on March 16, 2005, for failure to submit within three months, a proper and timely response to the non-Final Office action mailed on December 15, 2004. An RCE was filed June 10, 2005 in response to the non-Final Office action since prosecution had not closed in this matter, a notice that the request was improper was mailed on June 22, 2005. Accordingly, a Notice of Abandonment was mailed June 22, 2005.

In response to the Final Office Action mailed December 15, 2004, petitioner has submitted a continuation application pursuant to 37 CFR 1.53(b), application no. 11/166,727, filed June 27, 2005.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.10/042,517 filed January 7, 2002, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 3677 for processing of the continuation application filed June 27, 2005.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in cursive script that reads "Patricia Faison-Ball".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions